

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1007

<u>Applicant</u>	: Ms. CHOW Wing Shan represented by Metro Planning and Development Company Limited
<u>Site</u>	: Lots 805 RP (Part) and 806 RP (Part) in D.D. 117 and Adjoining Government Land (GL), Kung Um Road, Yuen Long, New Territories
<u>Site Area</u>	: 760 m ² (about) (including GL of about 315 m ²)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<u>Zoning</u>	: “Undetermined” (“U”)
<u>Application</u>	: Proposed Temporary Warehouse for Storage of Machinery and Spare Parts with Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for storage of machinery and spare parts with ancillary site office for a period of 3 years (**Plan A-1**). According to the Notes of the OZP for “U” zone, all uses or development except those specified in the covering Notes require permission from the Town Planning Board (the Board). The Site is currently occupied by vacant temporary structures (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was involved in three previous approved applications (No. A/YL-TYST/511, 656 and 822) for the same use as the current application (**Plan A-1**). The last application (No. A/YL-TYST/822) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 3.2.2017. All the approval conditions under the last application had been complied with and the planning permission lapsed on 4.2.2020. Compared with the last application, the current application is submitted by a different applicant for the same use with the same site layout and development parameters covering the same site.

1.3 According to the applicant, the proposed warehouse is for storage of mostly brand new machinery and spare parts. No open storage, packaging, repairing, dismantling and other workshop activities will be carried out at the Site. The applicant also undertakes that all existing trees/drainage facilities within the Site will be preserved/maintained at her own expense. Furthermore, no vehicles exceeding 5.5 tonnes, including medium and heavy goods vehicles, container trailers and tractors, will be allowed to enter the Site. Plans showing the site layout, landscape and tree preservation proposal and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.4 The major development parameters of the previously approved application are largely the same as the current application, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/822 (a)	Current Application No. A/YL-TYST/1007 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Machinery and Spare Parts with Ancillary Site Office for a Period of 3 Years		---
Site Area	About 760 m ² (including GL of about 315 m ²)		---
Total Floor Area (Non-domestic)	About 450 m ²		---
No. and Height of Structures	4 <ul style="list-style-type: none"> • one for warehouse (6m, 1 storey) • one for rain shelter (6m, 1 storey) • one for ancillary site office (6m, 2 storeys) • one for toilet and store room (3m, 1 storey) 		---
No. of Parking Space	Nil		---
No. of Loading/Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)		---
Operation Hours	9:00 a.m. to 9:00 p.m., with no operations on Sundays and public holidays	9:00 a.m. to 5:00 p.m., with no operations on Sundays and public holidays	Shorter Operation Hours

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 25.2.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Further Information (FI) dated 2.4.2020 clarifying the proposed operation hours **(Appendix Ib)**
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in Section 3 of the Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) The Site was the subject of previous planning permissions. All planning conditions imposed to the last application (No. A/YL-TYST/822) had been complied with. There is no change in planning circumstances since the approval of the last application, hence favourable considerations should be given to the current application.
- (b) According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E), the Site falls within Category 1 areas and is considered suitable for open storage and port back-up uses. The proposed development would not generate queuing of traffic outside the Site.
- (c) The proposed development is in line with the planning intention of the “U” zone. A number of open storage yards and warehouses have been approved by the Board in the vicinity of the Site. Therefore, the development is compatible with the surrounding environment. Besides, there is a shortage of land for open storage purpose in Tong Yan San Tsuen.
- (d) There will be minimal traffic, environmental, visual and drainage impacts arising from the proposal. Adequate space for manoeuvring of vehicles will be provided. The applicant undertakes to follow the environmental mitigation measures in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice), where applicable.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting a notice of the application outside the Site and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site was involved in three previous applications (No. A/YL-TYST/511, 655 and 822) for the same use as the current application, which were approved with conditions each for a period of 3 years by the Committee on 14.1.2011, 17.1.2014 and 3.2.2017 respectively, mainly on the considerations that the proposals were not in conflict with the planning intention of the “U” zone; approval of the applications on a temporary basis would not frustrate the long-term development

of the area; the developments were not incompatible with the surrounding uses; and the technical concerns of relevant government departments could be addressed by imposing approval conditions. All the approval conditions under the last application (No. A/YL-TYST/822) had been complied with and the planning permission lapsed on 4.2.2020. Details of the previous applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.

- 5.2 Compared with the last application, the current application is submitted by a different applicant for the same use with the same site layout and development parameters covering the same site.

6. Similar Applications

- 6.1 A total of 115 similar applications for various types of temporary warehouse with/without open storage and/or ancillary workshop/site office uses in this part of the “U” zone had been considered by the Committee since 2008. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 115 similar applications, 111 were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, planning permissions for 43 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications (No. A/YL-TYST/478, 922, 926 and 943) were either rejected by the Committee or the Board on review between 2010 and 2019, mainly on the grounds, amongst others, that approval of application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, applications No. A/YL-TYST/1009 for temporary warehouse for storage of food and electronic goods and application No. A/YL-TYST/1012 for renewal of planning approval for temporary warehouse and open storage of exhibition materials, both within the same “U” zone on the OZP, will also be considered at this meeting (**Plan A-1**).

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

- 7.1 The Site is:
- (a) accessible via a short local track leading from Kung Um Road to its east (**Drawing A-1** and **Plan A-2**);
 - (b) paved and fenced-off; and
 - (c) currently occupied by vacant temporary structures.
- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprising predominately warehouses and open storage/storage yards intermixed with scattered residential structures, workshops, a grave and vacant land/structures;
- (b) there are residential structures in the vicinity with the nearest one located to its immediate northwest (**Plan A-2**);
- (c) to the east of the Site across a nullah bisected by Kung Um Road and Pak Sha Shan Road is an area zoned “Other Specified Uses” annotated “Rural Use” on the approved Tai Tong OZP No. S/YL-TT/16; and
- (d) except for three warehouses with or without opens storage yard in the vicinity operating with valid planning permissions (No. A/YL-TYST/947, 971 and 983), the other warehouses, open storage/storage yards and workshops in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

The planning intention of the “U” zone is to cater for the continuing demand for open storage, which cannot be accommodated in conventional godown premises. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development. The area is therefore zoned “U” pending further detailed studies on the infrastructural impacts and the preparation of detailed layout plan.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Within the Site, the GL and Lot 806 RP in D.D. 117 are covered by Short Term Tenancy (STT) No. 2566 and Short Term Waiver (STW) No. 3472 respectively to permit structures erected thereon for the purpose of “Warehouse for Storage of Machinery and Spare Parts with Ancillary Site Office”.
- (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is

temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (b) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest Code of Practice to minimise any potential environmental nuisances on the surrounding areas.

Drainage

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the development.
- (b) Based on the planning statement (**Appendix Ia**) enclosed in the application, the applicant would maintain the existing drainage facilities as those implemented under previous planning application No. A/YL-TYST/822.

- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the existing drainage facilities and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

9.1.6 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of

any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Others

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8.8.2017, the Site mainly falls within an area shown as ‘Road’ and partly falls within an area zoned “Local Open Space” (“LO”).
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

9.1.9 Comments of Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) However, the southeastern part of the Site falls within the boundary of YLS Development – Stage 2 Phase 2, while northwestern part of the Site falls within the boundary of YLS development – Stage 3.

- (c) The land resumption and clearance programme of the YLS development – Stage 2 Phase 2 is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024, while the implementation of the YLS development – Stage 3 is being formulated. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in the southeastern part of the Site in view of the planned YLS development - Stage 2 Phase 2.

District Officer’s Comments

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

Her office has not received any comment from the village representatives in the vicinity regarding the application.

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 3.3.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 24.3.2020, no public comment was received.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary warehouse for storage of machinery and spare parts with ancillary site office for a period of 3 years at a site zoned “U” on the OZP. The proposed use is not in conflict with the planning intention of the “U” zone which is generally intended for open storage use but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site mainly falls within an area shown as ‘Road’ and partly falls within an area zoned “LO” on the RODP of YLS promulgated on 8.8.2017, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the proposed temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

11.2 The surrounding areas comprise mainly warehouses and open storage/storage yards (**Plan A-2**). Although there are residential structures nearby, the proposal is generally not incompatible with the surrounding uses in the “U” zone.

- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, CE/MN, DSD and DEP. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that three previous approvals for the same use have been granted to the Site and 111 similar applications have been approved in this part of the “U” zone since 2008, approval of the current application is in line with the Committee’s previous decisions. There were four similar applications in this part of the “U” zone rejected mainly on the grounds, amongst others, that approval of the application with repeated non-compliances with approval conditions would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system. However, such considerations are not applicable to the current application as all approval conditions under the previous applications have been complied with.
- 11.5 No public comment was received on the application during the statutory publication period.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department considers that the proposed temporary warehouse for storage of machinery and spare parts with ancillary site office could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 24.4.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no open storage, packaging, repairing, dismantling or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;

- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.7.2020;
- (i) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.10.2020;
- (j) in relation to (i) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 24.1.2021;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (h), (i) or (j) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

12.3 There is no strong reason to recommend rejection of the application.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 25.2.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI dated 2.4.2020 clarifying the proposed operation hours
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications in this Part of the “U” Zone on the OZP since 17.10.2008
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape and Tree Preservation Proposal
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2020**